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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,542	11/25/2003	Stephen L. Spear	CE11596R	5704
22917	7590	11/03/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,542

Applicant(s)

SPEAR ET AL.

Examiner

Daniel J. Ryman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-12, 14-17, 19, 21-26 and 28-32 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 13, 18, 20 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The indicated allowability of claims 10-18 is withdrawn in view of the newly discovered reference(s) to Womack et al. (USPN 6,438,114) and Dam et al. (USPN 6,771,987). Rejections based on the newly cited reference(s) follow.

2. Applicant's arguments with respect to claims 1, 3, 19, and 26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-3, 10-12, 19, 22, 26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Womack et al. (USPN 6,438,114).

5. Regarding claim 1, Womack discloses a method for transmitting unlink control data in a packet data communication system comprising: when a packet associated control channel is available, transmitting the control data via the packet associated control channel (Fig. 6; col. 5, lines 28-41; and col. 6, line 60-col. 7, line 8); and when a packet associated control channel is not available, transmitting the control data (signaling to set-up the PACCH link) via an uplink time slot (SDCCH) allocated for the transmission of the control data (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31).

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6. Regarding claim 10, Womack discloses a mobile station comprising: at least one memory device (memory of SIP control module 246) that maintains information concerning a packet associated control channel and a timeslot allocated for transmission of control data when the packet associated control channel is not available (col. 5, lines 28-41) where, as broadly defined, the SIP control module “maintains information concerning a packet associated control channel” since it will use an existing PACCH is one is available and, as broadly defined, the SIP control module “maintains information concerning . . . a timeslot allocated for transmission of control data when the [PACCH] is not available” since the SIP control module inherently maintains a relationship between an SDCCH and the new PACCH the SDCCH is being used to create; and a processor operably coupled to the at least one memory device that conveys the control data via the packet associated control channel when the packet associated control channel is available and conveys the control data via the timeslot when the packet associated control channel is not available (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31), where “control data” can be used to define any type of information that is used for control, including data used for an SIP connection and data used to create a PACCH connection.

7. Regarding claims 2 and 11, Womack discloses that transmitting the control data when a packet associated control channel is not available comprises transmitting the control data via a virtual associated control channel (SDCCH) that comprises at least one timeslot allocated by a network for transmission of the control data (Fig. 6; col. 5, lines 28-64; and col. 7, lines 20-31).

8. Regarding claims 3 and 12, Womack discloses transmitting a request (“channel request 400”) for a persistent, packet associated control channel (Fig. 6 and col. 5, lines 28-64); and in

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response to transmitting the request, receiving an allocation of the timeslot ("immediate assignment message 402") (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31).

9. Regarding claims 19 and 26, Womack discloses a method for transferring uplink control data in a packet data communication system comprising: receiving a request for a persistent, packet associated control channel ("channel request 400") (Fig. 6; col. 5, lines 28-64; and col. 6, line 60-col. 7, line 8); and in response to receiving the request, conveying an allocation ("immediate assignment message 402") of an uplink timeslot (SDCCH) for use in transmitting the control data when a packet associated control channel is not available (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31).

10. Regarding claims 22 and 29, Womack discloses when a packet associated control channel is available, receiving the control data via the packet associated control channel (Fig. 6; col. 5, lines 28-41; and col. 6, line 60-col. 7, line 8); and when a packet associated control channel is not available, receiving the control data via the timeslot allocated for the transmission of the control data (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6-8, 15-17, 23-25, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Womack et al. (USPN 6,438,114).

13. Regarding claims 6, 15, 23, and 30, Womack does not expressly disclose starting a timer in response to transmitting the control data in the allocated timeslot. However, Womack does disclose using timers to define the PACCH (col. 7, lines 5-8). Womack also discloses that the SDCCH is transmitted approximately every 120 milliseconds (col. 1, lines 21-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to start a timer in response to transmitting the control data in the allocated timeslot since this will allow the system to determine the proper timing for the transmission for the SDCCH.

14. Regarding claims 7, 16, 24, and 31, Womack suggests ceasing to use the allocated timeslot upon expiration of the timer (col. 1, lines 21-30 and col. 7, lines 5-8).

15. Regarding claims 8, 17, 25, and 32, Womack suggests that the control data comprises first control data and wherein the method further comprises: when a packet associated control channel is available, transmitting second control data via the packet associated control channel (Fig. 6; col. 5, lines 28-41; and col. 6, line 60-col. 7, line 8); when a packet associated control channel is not available, transmitting the second control data via a timeslot allocated for the transmission of the control data (Fig. 6; col. 5, lines 28-41; col. 5, line 60-64; and col. 7, lines 20-31); and restarting the timer (col. 1, lines 21-30 and col. 7, lines 5-8).

16. Claims 5, 14, 21, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Womack et al. (USPN 6,438,114) as applied to claims 1, 10, 19, and 26 above, and further in view of Dam et al. (USPN 6,771,987).

17. Regarding claims 5, 14, 21, and 28, Womack does not expressly disclose that the allocated timeslot is defined by a mobile station Uplink State Flag (USF) assignment and an assigned timeslot number. Dam teaches, in a mobile communication system, defining timeslots

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by a mobile station Uplink State Flag (USF) assignment and an assigned timeslot number in order to permit dynamic assignment (col. 1, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to define timeslots by a mobile station Uplink State Flag (USF) assignment and an assigned timeslot number in order to permit dynamic assignment.

Allowable Subject Matter

18. Claims 4, 13, 20, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose or fairly suggest defining the allocated timeslot by a modulus relationship between an Absolute Frame Number (AFN) associated and an Allocation Divisor 'M' which controls when the mobile station has the right to transmit on the timeslot.

19. Claims 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose or fairly suggest conveying by the mobile station a "keep alive" message for as long as the mobile station intends to utilize the allocated timeslot.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 7:00-4:30 with every other Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJR Daniel J. Ryman
Examiner
Art Unit 2665


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